

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KRISTY DOBBS,

Plaintiff,

vs.

**1:22-CV-1226
(TJM/DJS)**

CITIZENS BANK,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

Plaintiff filed this action, alleging that Defendant, Citizens Bank, violated her rights by withdrawing money from her account. She filed her complaint on a form provided by the Court and checked off a portion of the form attesting that the Court has federal question jurisdiction. Plaintiff also sought leave to proceed *in forma pauperis*. The Court referred the Complaint to the Hon. Daniel J. Stewart, United States Magistrate Judge, for an initial review and Report-Recommendation pursuant to 28 U.S.C. §§ 1915 and 636(b), and Local Rule 72.3(c). The Report-Recommendation, dated December 7, 2022, recommends that the Court dismiss the Complaint for failure to state a claim upon which relief could be granted. See dkt. # 5. Judge Stewart finds that Plaintiff has not pointed to any basis for a federal claim arising from the Defendant's alleged confiscation of her money. He also finds that the statute of limitations has likely run on the claim, which likely

accrued in 2007. Judge Stewart further recommends that the Complaint be dismissed without prejudice owing to Plaintiff's *pro se* status.

Plaintiff objected to the Report-Recommendation. When a party objects to a magistrate judge's Report-Recommendation, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Plaintiff's sole objection is a sentence that repeats her claim in this case that Citizens Banks wrongly withdrew money from her account in 2007. Having reviewed the record *de novo* and having considered the other issues raised in the Plaintiff's objections, this Court has determined to overrule Plaintiff's objections accept and adopt the recommendation of Judge Stewart for the reasons stated in the Report-Recommendation.

Accordingly:

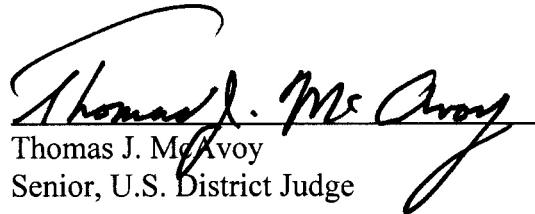
Plaintiff's objections, dkt. #6, to the Report-Recommendation of Judge Stewart, are hereby **OVERRULED**. The Report-Recommendation, dkt. # 5, is hereby **ACCEPTED and ADOPTED**. Plaintiff's Complaint is hereby **DISMISSED WITH LEAVE TO REPLEAD**. Plaintiff shall file her Amended Complaint, if any, within 30 days of the date of this order. Failure to file an Amended Complaint within that time will cause the Court to direct the Clerk of Court to close this matter without additional proceedings.

PLAINTIFF IS REMINDED THAT NO PORTION OF HER PRIOR COMPLAINT

SHALL BE INCORPORATED BY REFERENCE INTO HER AMENDED COMPLAINT.
ANY AMENDED COMPLAINT SUBMITTED BY PLAINTIFF MUST SET FORTH ALL OF
THE CLAIMS SHE INTENDS TO ASSERT AGAINST THE DEFENDANT AND MUST
DEMONSTRATE THAT A CASE OR CONTROVERSY EXISTS BETWEEN THE
PLAINTIFF AND THE DEFENDANT WHICH PLAINTIFF HAS A LEGAL RIGHT TO
PURSUE AND OVER WHICH THIS COURT HAS JURISDICITON. IF PLAINTIFF
INTENDS TO ALLEGE THAT DEFENDANT VIOLATED A LAW, SHE MUST
SPECIFICALLY REFER TO THAT LAW.

IT IS SO ORDERED.

Dated: December 28, 2022


Thomas J. McAvoy
Senior, U.S. District Judge